

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case Number 15-20472
Honorable David M. Lawson

KENNETH SMITH,

Defendant.

ORDER FINDING DEFENDANT COMPETENT TO STAND TRIAL

On February 22, 2016, defendant Kenneth Smith pleaded guilty to conspiracy to violate the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962(d) and failure to appear in court, 18 U.S.C. § 3146(a)(1), and his sentencing hearing was scheduled for June 2, 2016. Thereafter, Smith's attorney's motion to withdraw was granted and new counsel was appointed to represent Smith under the Criminal Justice Act on August 1, 2016. New counsel sought a psychological evaluation of the defendant to aid in preparing a sentencing memorandum.

Smith was evaluated in the Sanilac County Jail on September 9, 2016 by Jennifer Zoltowski, a limited license psychologist. After the evaluation, Ms. Zoltowski expressed concern about Smith's ability to understand the nature and object of the proceedings against him, due to his history of abuse as a child, an early history of drug abuse, and an extremely low intelligence quotient. The defendant then filed a motion for a competency evaluation, asking that the sentencing not proceed until his competency could be determined under 18 U.S.C. § 4241(d). The Court granted that motion, and the defendant was transported to the Federal Detention Center in Houston, Texas, where he was evaluated by licensed psychologist Doctor Tennille Warren-Phillips, Psy.D. After Dr. Warren-Phillips produced a report of her evaluation, the defendant filed a motion for a separate

examination by an independent evaluator, which the Court granted. The defendant subsequently was evaluated a third time by Doctor Jack Haynes.

The Court has reviewed the reports by Dr. Warren-Phillips and Dr. Haynes and held a competency hearing on June 27, 2017. After reviewing the reports of the experts and considering the arguments and submissions of the parties, the Court announced from the bench its determination that the defendant is not suffering from any mental disease or defect that would render him incompetent to stand trial or otherwise proceed in the case within the meaning of 18 U.S.C. § 4241(a) & (d). The Court therefore will proceed with the sentencing, but it will grant the defendant's request to adjourn the sentencing hearing so that he can address certain issues raised by several pending state court proceedings against him.

Accordingly, it hereby is **DETERMINED**, for the reasons stated on the record, that the defendant is not suffering from any mental disease or defect that would render him incompetent to stand trial or otherwise proceed in the case within the meaning of 18 U.S.C. § 4241(a) & (d).

It is further **ORDERED** that the parties must appear for a sentencing hearing **on August 29, 2017 at 10:00 a.m.**

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: June 27, 2017

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on June 27, 2017.

s/Susan Pinkowski
SUSAN PINKOWSKI